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Annex "A," Subparagraph 2d,
Political Background

PUBLIC ORDER AND SAFETY

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692 In the North China Region, as elsewhere in Communist China, the employment of terror is a major tactic for the maintenance of public order and the consolidation of political power. The policy is implemented through rigid control of the populace and various methods of suppressing opposition. Such public security organs as the People's procuratorate and the People's courts are primary agencies in effecting this kind of control.

The judicial organ of the government is conceived neither as an institution of justice nor as a protector of individual rights but as a weapon of the state for "safeguarding the People's democratic system and protecting public property." In the same fashion, local People's procuratorates are also organs of control "to supervise the decisions, orders, and measures of local state organs and to supervise persons working in organs of state and all citizens to ensure observance of the law." Furthermore, they are the instruments of control of the Communist Party over the People's courts and public security agencies, supervising adjudication of the people's courts and checking the investigations of public security agencies. Unquestionably, the public security agencies, the police, and the security forces are instruments of violence. They assume direct

625 692 responsibility for the maintenance of public order and constant vigilance over the entire populace.

These organs of control are centrally organized. They are relatively immune from local interference and are rigidly supervised by the Communist Party. This chapter will deal with the People's courts and procuratorates, the public security agencies and police, and the criminal code including laws governing "counterrevolutionary" activities.

I. PEOPLE'S COURTS AND PEOPLE'S PROCURATORATES

A. People's Courts

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When the Supreme People's Court was established in November 1949, the People's courts in the North China Region were already in existence[1] Subsequently the North China Branch Court of the Supreme People's Court was established to serve as the representative of the Supreme People's Court and as the final court in the region. The provincial People's court and courts at lower levels continued to operate with a few changes in personnel. A research institute of law was also established in the College of Political Science and Law in Peking to give elementary and advanced training to both new and the old judicial personnel.[2]

1. Report of Shen Chün-ju, Jen-min Jih-pao [People's Daily], June 2, 1950, p. 1.
2. Ibid., Jan. 5, 1950, p. 1.

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• 692 Students were trained to promote revolutionary consciousness and to "reform" themselves in conformity with new judicial practices. Since September 1950, in major cities like Peking and Tientsin, ch'ü People's courts have been established under the direct supervision of the Supreme People's Court to expedite trials and to increase mass participation.[3]

Serving as a political weapon of the state, the People's courts at all levels have subordinated their judicial functions to political expediency. They have geared their work to the service of the various movements and campaigns and have actively engaged in the suppression of counter-revolutionary activities and the maintenance of public order. In the course of the development of the People's courts, at least three stages can be recognized; at each stage a specific task was assigned. The first stage lasted from the establishment of the judicial authority in 1949 to the end of the Three-Anti and Five-Anti campaigns in June 1952. The Judicial Reform Campaign from August to the end of 1952 constituted the second stage; and the third stage, beginning from 1953, in which the new judicial system was firmly entrenched, followed.

After the Communists' seizure of power, People's courts were employed as instruments of violence. People's tribunals were established throughout the nation and the work of the courts

3. Ibid., Aug. 21, 1951, p. 3.

692 were co-ordinated with the execution of the Land Reform Movement in farming communities and the Three-Anti and Five-Anti campaigns in the cities. Once political power was assured, the Communists shifted their attacks to the old judicial agencies. The Judicial Reform Campaign was launched throughout the nationa in June 1952 with the intent of replacing the old system by a new one. The campaign reached the North China Region two months after it had begun in other regions, but the objective remained the same. After Communist power was consolidated in judicial agencies the courts supported the Communist program of 1953. At the same time, the court system underwent further renovation in preparation for the construction of the new People's court system. The nature and spirit of the court were expressed in the Organic Law of the People's Court of the People's Republic of China.[4]

1. The First Stage (1949 to June 1952). The distinguishing feature of judicial activities during the initial period was the institution and use of the People's tribunals to place all judicial activities in the hands of the Party functionaries. In the North China Region, People's tribunals were used for political purposes during the Land Reform Movement and the Three-Anti and Five-Anti campaigns.

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4. English test of the Law, Current Background, Hong Kong, American Consulate General, No. 303, November 5, 1954, pp. 1-7.

692 The regulations governing the organization of the People's tribunals for land Reform issued by the Government Administration Council[5] provided for the organization of People's tribunals and county People's courts with authority to liquidate landlords, depots, bandits, spies, and all persons engaged in opposition to Land Reform. Ch'ü People's tribunals were established in every two or three ch ü. These tribunals were to deal with criminal matters only and were authorized to inflict sentences demanding no more than five years' imprisonment. They were authorized to initiate arrests and prosecute counterrevolutionaries. In certain counties of Hopei Province, People's tribunals were organized from the judicial teams sent out by the county People's courts. In Hsin-ch'eng county, the People's tribunals were established in all ch'ü; by January 1950, a few months after the Land Reform Movement began, 72 land reform cases in the county were prosecuted by these tribunals.[6]

The method of selecting personnel to serve on the adjudication committee in the People's tribunals indicated the political character of the tribunals. Members of the adjudication committee were drawn from mass organizations. Half were elected by the county People's Representatives' Conference. The other half, including the president of the committee and his deputy, were appointed by the county People's government. In most cases, the

5. Hua-tung Ch'ü Ts'ai-cheng Ching-chi Fa-ling Hui-pien [Compendium of Laws and Regulations Concerning Financial and Economic Policies in East China Region] , Financial and Economic [cont'd]

county head and the ch'ü heads were concurrently the presidents of these tribunals.

Mass trial and immediate sentence were the two chief means by which the People's tribunal created terror and violence. When cases were heard, judges bombarded the people with propaganda. Past hatreds and injustices were recalled or manufactured until mass emotion was so thoroughly aroused that the people themselves arose to accuse the defendants selected by the Party. After denunciations were made, quick judgments were urged upon the masses. Under such methods of intimidation and violence the defendant was helpless. It is not surprising to find that the memory of violence and cruelty at these trials remained a psychological threat in the minds of the people. Trials by circuit courts were also instituted so that the People's courts exercised authority over a much wider area.

In March 1952, directives on the establishment of Three-Anti People's tribunals and Five-Anti People's tribunals were issued by the Government Administration Council.[7] The Three-Anti People's tribunals were organized in government departments and in the armed forces. The president of the tribunal was generally the head of the department or the commander of the army unit.

Committee, East China Military and Political Committee, Shanghai, September 1951, pp. 1950-1952.

6. People's Daily, Feb. 21, 1950, p. 3.

7. Directives on establishment of Three-Anti Tribunal, ibid., Mar. 25, 1952, p. 1; on the Five-Anti Tribunal, ibid., Mar. 1952, p. 1.

692 Members of the courts were either activists within the department or unit or representatives from various Party-controlled organizations. The tribunals were given the power to hold mass trials and to inflict the death sentence. The Five-Anti People's tribunals followed the organizational patter of the Three-Anti tribunals. Under the municipal People's courts, People's tribunals were organized at the ch'ü level. In the city of Peking, 30 Three-Anti tribunals and 59 Five-Anti tribunals were reported to have been established during the last stages of the campaigns. [8]

People's tribunals proved so effective as weapons of control that they were greatly extended during the nationwide election of 1953-54. The main function of the tribunals was to punish electi violators, including unqualified candidates and voters. The tribunals were under the direction of the election committee at each government level. As of February 1954, a People's tribunal had been established in each of the twelve ch'ü in the city of Tientsin. [9]

2. The Second Stage: The Judicial Reform August 1952. Only minor changes in the People's courts of the North China Region had preceded the launching of the Judicial Reform Campaign. To justify the need for this violent campaign, the Communists blamed the remaining pre-Communis personnel and especially their influence at higher levels. The influence and the crimes of these judicial employees of long standing were probably exaggerated by the Communists. In the Tientsin

8. Ibid., Mar. 20, 1952, p. 1.

9. For the functions of election tribunal see Ibid., Feb. 7, 1954, p. 3.

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Municipal People's Court, for example, 97 long standing employees were reported among the 120 people working in the adjudication committees.[10] In Taiyuan, Shansi Province, the number of old-guard participants was as high as 83 per cent; even in Peking, the percentage was reported to be about 52 per cent.[11] Such a large percentage was asserted to be common in all provincial and municipal People's courts -- the higher the court, the higher the percentage. These judicial workers were also charged with corruption on various counts. In Taiyuan, one-half of the judicial employees accused of corruption had once been employed by the Nationalist Government.

To eliminate the personnel and practices left over the Kuomintang period, the campaign encouraged mass meetings to identify, accuse, and pass judgment upon "corrupt" judicial officers. The habit criticism and self-criticism involving ideology and performance, was developed within the courts. Meanwhile, the Communists called for the inspection and the reform of prison management.

The Communists also began to dispose of "accumulated" cases -- untried or mistried cases. The People's tribunals were encouraged to investigate past adjudication as well as cases still pending in the courts. In both instances, mass meetings and mass trials were held. The speed with which cases were processed created an atmosphere of terror at these trials. In the county of Hochien, Hopei Province,[12] a team of ten people were

10. Report of Shih Liang, Minister of Justice, ibid., Aug. 23, 1952, p.1.

11. Ibid., Sept. 13, 1952, p.1.

12. Ho-pei Jih-pao [Hopei Daily], July 19, 1951, p.1.

698 reported to have handled all the cases in that county in ten days. In Ts'ang hsien, 146 cases were disposed of in four days.[13]

After mass concern has been aroused, mediation committees were established. These committees, organized in both the cities and the rural areas, formed the broad foundation of judicial power and functioned as instruments of local government to influence judicial activities. Composed meainly of activists from various mass organizations, the committees were further subdivided according to the types of disputes to be handled. When a dispute arose, all parties involved were invited to a meeting at which the activists bombarded the participants with propaganda and tried to persuade them to accept the verdict dictated by the committee. In the city of Peking,[14] collective mediation was begun and representatives of all related organizations were invited to present their views. Government policies were stressed during collective mediation, and sometimes smaller discussion groups were organized to facilitate individual "persuasion."

671 The Communist determination to eliminate the
●692 Kuomintang code and the existing judicial system was expressed in the Common Program of 1949. Article 17 of the Common Program proclaimed "the abolition of all laws, decrees, and judicial systems of the Kuomintang Government and the establishment of the People's Judicial System." The Communists justified complete replacement of the Kuomintang code, the Liu-fa Ch'üan-shu [The Compendium of the Six Codes of the Repub-

13. Ibid., August 11, 1951, p. 2.
14. People's Daily, July 18, 1952, p. 3.

lic of China] , on four princples.[15] (a) The judiciary is an instrument of the People's dictatorship to serve the interest of the state and to suppress the class opposing the workers and peasants. (b) The exceedingly mechanical procedure of the old courts is burdensome and unnecessary. (c) A purely legalistic approach to a case without consideration of the economic and social relationships in society is contrary to the socialist concept of law. (d) The use of precedents for adjudication should be abandoned as a bourgeois practice. 671 692

At the same time, the Communists defended their system from the socialist viewpoint, which entails the following procedures: (a) the reduction of appellant cases and the concentration of judicial authority in the lower courts; (b) the adoption of adjudication committees to render judgment by collegia in special cases; (c) the review and periodic check of non-appellant cases by the higher court and the practice in the lower court of seeking instructions from and reporting progress to the higher court; (d) the conduct of mobile trials, and (e) the use of People's assessors, composed of representatives from various People's organizations; (f) the use of "comrade trial" meetings for cases involving ideology and labor discipline in factories, officer, and enterprises; and (g) such methods as oral inquiries, on-the-spot investigations, the People's reception rooms, and mediation committees.

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15. For discussion, se Li Kuang-ts'an's article "P'i-p'ing Jen-min Fa-lü Kung-tso Chung Chiu-fa Kuan-tien" "Criticizing Old Jurisprudential Viewpoint in the People's Judicial Work," [Study] , No. 7, Oct. 1, 1952, pp. 16-19. 6

693 3. The Third Stage (1953-55) The large-scale elimination of "old-established" personnel necessitated the training of new personnel as replacements. At the second session of the National Judicial Conference held in September 1953, a resolution was passed calling for the training of 200-500 judicial workers from each region.[16] Universities were told to strengthen their law schools, and students of political science and law were encouraged to work for the People's courts.

• 692 With regard to the gradual introduction of Communist concepts and techniques into the People's courts, effort was concentrated on the strengthening of judicial power at lower levels and the establishment of special courts in industrial and mining organizations. Progress was reported in July 1955 by Shih Liang, Minister of Justice. In the nation as a whole, 3,795 circuit courts and 157,966 mediation committees had been established.[17] In Ting-hsien, Hopei Province, four circuit courts were in operation, of which three were converted to People's tribunals[18] because it had been discovered that the tribunals spent less time over each trial and could settle in a given period more cases than could the circuit courts.

698 The establishment of special courts in industrial and economic organizations was first

16. People's Daily, Sept. 10, 1953, p. 1.
17. Ibid., July 30, 1955, p. 6.
18. Kuang-ming Jih-pao [Enlightenment Daily], July 9, 1955, p. 2.

698 carried out in transportation centers. As of September 1954, eight railway courts and one waterway court had been set up in the nation as a whole. To cope with the increasing number of cases involving econmic matters, various judicial organizations were established. The "comrade trial" court is one of these organizations. As of June 1954, 70 of these courts had been inaugurated in major cities throughout the nation.[19] Members of these trial courts were activists from the trade unions. Like the mediation committees, the comrade trial courts employed self-criticism and p opaganda as the chief weapons. Their authority extended only to recommending administrative punishment, and their jurisdiction was limited to disciplinary cases.

692 The passage of the Organic Law of the People's Court of the People's Republic of China by the first session of the National People's Congress, which also promulgated the Constitution of September 1954, placed the judicial system on a "permanent" basis. The new law formalized the relationships among the courts -- the Supreme People's Court, the High People's Court in a province and a municipality, and the basic-level People's court in a county, city, and municipal ch'ü. The courts continued to serve as weapons of the state and to subordinate judicial functions to political policies. This gain was achieved by the political selection of judicial personnel and the establishment of People's tribunals. At the

19. People's Daily, June 5, 1954, p. 3.

692 provincial and local levels, the president of the court is elected by the respective People's congresses, but the president and members of the various adjudication committees are appointed by the People's council. By control of the People's council, the Communist Party's decisive role in the appointment of a responsible judiciary is assured. The establishment of people's tribunals on a broad foundation also has made possible the widespread use of terror. Whenever necessary, circuit hearings are held in villages and towns to which the power of the county People's court does not reach.

B. People's Procuratorates

693 In the North China Region, the Supreme People's Procuratorate exercised direct authority over the People's procuratorates in the several provinces. This relationship continued after the promulgation of the Constitution. Under the Supreme People's Procuratorate, similar offices have been organized at all levels of government down to the municipal ch'ü. In the past, the establishment of People's procuratorates has been encouraged, but organization in the North China Region is far from complete. At the Provincial Procuratorial Work Conference Hopei Province in February 1955, it was reported that during 1954 some 33 additional People's procuratorates had been established throughout the province.[20]

20. Survey of China Mainland Press, Hong Kong, American Consulate General, No. 998, March 2, 1955, p. 25.